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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,053	09/27/1999	RICHARD L. PALINKAS	D-6394	2219

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EXAMINER

SY, MARIANO ONG

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/407,053	PALINKAS, RICHARD L. <i>M</i>	
	Examiner	Art Unit	
	Mariano Sy	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 October 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3,5,6,8,10-15,17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,5,6,8,10-15,17 and 19-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 October 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on October 26, 2004 has been received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15, 19, 20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (U.S. Patent Number 4,566,678).

Re-claims 15 and 24 Anderson disclosed, as shown in fig. 1-4, a compression spring assembly comprising: a first housing 60 having a bore extending through said first housing; a first load bearing member 62 coupled to said first housing and defining an abutment surface opposite to said first housing; a second housing 40 having a bore extending through said second housing, adapted to telescopically receive said first housing; a second load bearing member 42 coupled to said second housing and defining an abutment surface opposite to said second housing; and at least one compression spring 54 in the shape of a torus positioned within said first housing bore; wherein the torus shaped compression spring (fig. 2) defines an outside diameter (measured 2.375 inches) minus an inside diameter (measured 0.625 inch) equal to 1.750 inches which greater than a height (measured 1.50 inches) when positioned in the compression spring assembly.

Re-claim 19 Anderson disclosed, as shown in fig. 1-4, comprising two compression springs positioned within said first housing bore.

Re-claim 20 Anderson disclosed, as shown in fig. 1-4, further comprising a plate 58 positioned between the springs, separating the springs from one another.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, 6, 8, 10-14, 17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Platkiewicz et al. (US 4,465,799), in view of Curtis et al. (US 5,036,774) and in view of Spencer et al. (US 5,086,707).

Re-claims 1 and 23 Anderson disclosed, as shown in fig. 1-4, a compression spring assembly comprising: a first housing 60 having a bore extending through said first housing; a first load bearing member 62 coupled to said first housing and defining an abutment surface opposite to said first housing; a second housing 40 having a bore extending through said second housing, adapted to telescopically receive said first housing; a second load bearing member 42 coupled to said second housing and defining an abutment surface opposite to said second housing; and at least one compression spring 54, comprising a solid resilient material, positioned within said first housing bore having a torus shape; wherein the torus shaped compression spring

(fig. 2) defines an outside diameter (measured 2.375 inches) minus an inside diameter (measured 0.625 inch) equal to 1.750 inches which greater than a height (measured 1.50 inches) when positioned in the compression spring assembly.

However Anderson failed to disclose at least one slip lining positioned between said first housing exterior surface and a bore wall defining said second housing bore.

Platkiewicz et al. disclose a low friction slide lining composition and a method of producing the slide lining composition. Curtis et al. disclose a long travel side bearing for an articulated railroad car (see fig. 5 and 6 including spacers 64, 65) and Spencer et al. disclose self-adjusting constant contact side bearings for railcars (see fig. 4, including shims 100, 102).

It would have been obvious to one of ordinary skill in the art to have included a slip lining, as taught by Platkiewicz et al., between the first housing and a bore wall defining the second housing bore in order to "improve utilization of slide surfaces" (Platkiewicz et al., col. 1, lines 59-60). Curtis et al. and Spencer et al. provide further motivation to combine Anderson and Platkiewicz et al. Specially, Curtis et al. teach that it is desirous to "permit sliding of the top cap member around the sleeve member" (Curtis et al. col. 4, lines 66-68) and Spencer et al. teach that it is desirous to "automatically adjust and compensate for wear between cap and base parts" (Spencer et al. col. 1, lines 57-58).

Re-claim 3 Anderson disclosed wherein the compression spring deforms non-linearly in response to said load imposed on at least one of the first and second abutment surfaces.

Re-claims 5 and 6, see Anderson: col. 2, lines 20-21.

Re-claim 8, see Anderson: fig. 4.

Re-claims 10 and 11, see generally Platkiewicz et al. col. 3, lines 2-6 and col .1 lines 19-23.

Re-claim 12, see generally Platkiewicz et al. col. 2, line 67, "rubbing pair". Also see MPEP 2144.04. VI.B: "Duplication of Parts", specifically, "the mere duplication of parts has no patentable significance unless a new and unexpected result is produced".

Re-claim 13, see Platkiewicz et al. col. 3, line 63.

Re-claim 14, see Platkiewicz et al. col. 3, line 64.

Re-claim 17, see Anderson, fig. 4.

6. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Platkiewicz et al. (US 4,465,799), in view of Curtis et al. (US 5,036,774) and in view of Spencer et al. (US 5,086,707).

Re-claim 21 Anderson failed to disclose a first slip lining attached to said first housing exterior surface.

Platkiewicz et al. disclose a low friction slide lining composition and a method of producing the slide lining composition. Curtis et al. disclose a long travel side bearing for an articulated railroad car (see fig. 5 and 6 including spacers 64, 65) and Spencer et al. disclose self adjusting constant contact side bearings for railcars (see fig. 4, including shims 100, 102).

It would have been obvious to one of ordinary skill in the art to have included a slip lining, as taught by Platkiewicz et al., between the first housing and a bore wall defining the second housing bore in order to "improve utilization of slide surfaces" (Platkiewicz et al., col. 1, lines 59-60). Curtis et al. and Spencer et al. provide further motivation to combine Anderson and Platkiewicz et al. Specially, Curtis et al. teach that it is desirous to "permit sliding of the top cap member around the sleeve member" (Curtis et al. col. 4, lines 66-68) and Spencer et al. teach that it is desirous to "automatically adjust and compensate for wear between cap and base parts" (Spencer et al. col. 1, lines 57-58).

Re-claim 22, see generally Platkiewicz et al. col. 2, line 67, "rubbing pair". Also see MPEP 2144.04. VI.B: "Duplication of Parts", specifically, "the mere duplication of parts has no patentable significance unless a new and unexpected result is produced".

7. Applicant's arguments with respect to claims 1 and 15 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Response to Arguments

9. Examiner maintains the rejection is proper. Anderson '678 disclosed a compression spring 54 in the shape of a torus. The term "torus" wherein the cross section of the torus can take form of different shapes such as disclosed by Pees et al. (US 4,527,781) see col. 2, lines 56-59; Etnyre (US 5,941,351) see col. 10, lines 56-58; and Askew (US 6,412,586) see col. 4, lines 4-7).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MS
M. Sy

December 13, 2004



12/16/04

MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310